

## REMARKS/ARGUMENTS

The Applicant appreciates the Examiner's continued consideration of the present Application. In the final Office action, claims 1-4, 6-15, 17, 19 and 21-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane et al. (U.S. Patent No. 6,434,530).

In response to the claim rejections and the comments provided in paragraph 3 of the Office action, the Applicant has amended each of the pending independent claims 1, 13, 14 and 25. The Applicant submits that none of the amendments adds new matter.

Further, the Applicant respectfully submits that none of these amendments results in the recitation of a new feature that was not previously recited in earlier claims. Rather, these amendments merely serve to further clarify, and to place additional emphasis upon, features of the Applicant's invention that have already been previously claimed. Consequently, the Applicant would appreciate the Examiner's entry and consideration of the claims as amended, since in the Applicant's view these amendments do not necessitate any additional searching on the part of the Examiner.

With the above considerations in mind, then, the Applicant provides the following comments concerning the amendments of the claims and several reasons why the claims, as amended, are allowable under 35 U.S.C. 103(a) over Sloane et al.

### I) Amendments to the Claims

#### A) Amendments to Independent Claim 1

As shown above, independent claim 1 has been amended in two ways. First, claim 1 now expressly recites that the first user interface is positioned in a "substantially stationary manner". This language merely reintroduces into claim 1 that the first user interface is a substantially fixed, or substantially immobile, device that is positioned at a particular location in a store for a significant period of time. Since claim 1 in its original form (as originally filed) recited that the first user interface was "fixed", this amendment

does not add new matter and does not necessitate additional searching on the part of the Examiner.

Second, claim 1 has been amended to provide further emphasis upon certain existing language of the claim, particularly the language that the “information signal provided by the inventory information unit depends at least sometimes upon a first portion of the product availability information”. More specifically, the amendment to claim 1 provides one example of how the information signal can depend upon product availability information--namely, that “when the input signal is indicative of a product location inquiry and the inventory information unit determines based upon the product availability information that the product is unavailable at a location, the inventory information unit configures the information signal so that the output signal provided by the user interface does not provide an indication that the product is available at the location”.

The Applicant submits that this second amendment to claim 1 also does not necessitate additional searching on the part of the Examiner. This language being added to claim 1 merely serves to illustrate exemplary behavior of the Applicant's system as previously recited in claim 1. Further, this type of behavior was already discussed in the Applicant's previous Amendment submitted on January 3, 2004 and has been the subject of claims as previously submitted (e.g., claim 23). Thus, the behavior recited in the amendment to claim 1 was already the subject of the Examiner's search that resulted in the identification of Sloane et al. Additionally, it should be noted that this amendment does not add new matter, and that support for this amendment can be found at, for example, page 9, lines 3-14, page 10, lines 7-11, page 16, lines 1-30, page 18, lines 15-31, page 19, lines 13-27, page 31, lines 1-18 and original claim 5. Because this amendment merely serves to further emphasize the existing language of claim 1, it is not being made for reasons substantially related to patentability.

#### B) Amendments to Claims 13, 14 and 25

To facilitate the Examiner's consideration of all of the pending claims, the Applicant has also amended each of the other independent claims 13, 14 and 25 to recite similar limitations as have been added to claim 1. Claim 25 further has been amended in

particular to provide that the product-related information includes product availability information. For the same reasons as discussed above with respect to claim 1, none of these amendments necessitates new searching on the part of the Examiner, and none of the amendments adds new matter.

### C) Further Comment Concerning Claim Amendments

Because all of the pending independent claims as amended now recite the same or similar features, and because it is believed that none of the amendments involve the addition of new features that might require further searching by the Examiner, the Applicant respectfully requests entry of the claim amendments and consideration of the claims as amended.

### II) Allowability of Claims Under 35 U.S.C. 103(a) Over Sloane et al.

Despite the comments in paragraph 3 of the Office action, the Applicant respectfully submits that pending claims 1-4, 6-15, 17, 19 and 21-26, as amended, are allowable under 35 U.S.C. 103(a) over Sloane et al. In particular, as set forth below, the Applicant submits that numerous features of the pending claims, particularly the independent claims 1, 13, 14 and 25, are neither disclosed nor suggested by Sloane et al. As the Examiner reviews the comments below, the Applicant respectfully reminds the Examiner that, to establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations” and “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings” (MPEP Section 2143).

### A) Product Location Information

The Applicant’s invention is largely (albeit not entirely) focused upon a system that is capable of providing information regarding the location of products within a store to customers who are in the store and inquiring about those products. This is reflected in the Applicant’s independent claims, each of which recites a database or other storage unit that stores product location information and an interface by which such information can

be provided to customers. Yet, despite the centrality of providing product location information to the Applicant's claimed invention, paragraph 3 of the Office action states that Sloane et al. "does not appear to explicitly describe product location information".

Paragraph 3 goes on to state that "[t]o have provided product location information as part of a report for Sloane et al. would have been obvious to one of ordinary skill in the art". Additionally, paragraph 3 goes on to state that the motivation for providing product location information as part of a report "would be access to such information to facilitate easier purchase thereof" and that "[i]t is noted that transmitting product location information was common knowledge in the art at the time of Applicant's invention".

Based upon these latter comments, it is evident that the Examiner is essentially relying upon Official Notice to support a view that it would have been obvious to modify Sloane et al. to provide the Applicant's claimed system for providing product location information in a store. The Applicant respectfully disagrees with this view and respectfully requests, in accordance with MPEP Section 2144.03(C), that the Examiner provide documentary evidence in the next Office action supporting this position or otherwise withdraw the rejection of the claims. The Applicant also respectfully notes that the applicability of the above comments does not depend upon any of the aforementioned amendments to the claims.

#### B) Combination of Product Location and Product Availability Information

In the previous Amendment filed by the Applicant on January 3, 2004, the Applicant contended that Immarco et al. failed to disclose or suggest a system that was capable of storing both product location information and product availability information and then utilizing both types of information in an integrated manner when providing responses to customers' product location inquiries. The Applicant further stated:

Because the Applicant's system employs an information unit that integrates product location information with other product-related information including product availability information, the Applicant's system is more sophisticated than, and advantageous in comparison with, the system of Immarco et al. Unlike the system of Immarco et al., the Applicant's system is able to associate interrelated pieces of data beyond simply product location data, and able to vary its output based upon those interrelated pieces of data. This capability in turn makes it possible for the

Applicant's system to provide information to customers that is more accurate and helpful than would be provided by a system such as that of Immarco et al. For example, as expressly recited by new claim 23, the Applicant's system in certain embodiments is able to indicate to customers that a particular product is unavailable when the customers inquire about the location of such product. This prevents a customer from being directed to the location of a product that is no longer available at that location, and thus avoids customer dissatisfaction that might otherwise occur.

The Applicant submits that these arguments set forth in the Applicant's January 3rd Amendment continue to be relevant with respect to the allowability of the Applicant's claims in view of Sloane et al. That is, the Applicant submits that Sloane et al., like Immarco et al., fails to disclose or suggest a system that stores and utilizes both product location and product availability information together in an integrated manner and, more particularly, fails to disclose or suggest a system that is capable of adjusting the product location information that is provided to customers based upon the product availability information. The Applicant further wishes to stress that this failure on the part of Sloane et al. to disclose or suggest a system that integrates product location and product availability information is significant because, as a result, the Applicant's system is capable of providing a number of benefits that are unavailable from the system of Sloane et al. In particular, the Applicant's system is able to provide information to customers that is more accurate, timely, and helpful than would be provided by the system of Sloane et al., since product location information does not remain constant when changes in inventory within the store occur that affect the actual physical locations of products.

To further emphasize this feature of the Applicant's claimed invention, the Applicant has amended each of the independent claims 1, 13, 14 and 25 to expressly recite an exemplary behavior of the Applicant's claimed system. In particular, each of claims 1, 13, 14 and 25 as amended now recites a system storing product location and product availability information that avoids providing an indication that a product is at a particular location when the product availability information indicates that the product is no longer available that location. For example, if a product is discontinued, the Applicant's system would not only record that fact, but also the response provided by the

Applicant's system in response to a product location inquiry concerning that product would then change.

Yet these amendments to claims 1, 13, 14 and 25 are only meant to exemplify one of many types of behavior of the Applicant's system that are possible due to the integration of product location information with product availability information in the Applicant's system. That is, there are numerous circumstances in which the integration of product location and product availability information can be beneficial to customers. For example, the Applicant's system is also capable of providing information regarding alternate products that may be of interest to a customer when a given product is unavailable. Further, in some circumstances, a store will place a certain amount of a given product at a primary location and then, if additional "surplus" amounts of the product are also available, place those additional amounts at another location. In such circumstances, the Applicant's system would be able to direct a customer to both of the locations if it is known that the surplus exists or, if not, direct the customer to only the primary location. In other circumstances, where the surplus is located at a storage area of the store not generally accessible to customers, the Applicant's system could provide to the customer an indication that more of the product is still available even though the product is not available at its primary location.

More generally, because the Applicant's system is capable of integrating product location information with a variety of types of product-related information (product availability information being only one of these), the Applicant's system is able to identify and communicate to customers a variety of amounts and types of product-related information that may be of interest, in addition to merely product location information. Several types of information that can be provided to a user (which are recited in more detail by claims 21, 22, 24 and 25) include, for example, information concerning a product's presence or absence within a store, information concerning the quantity of a product that is available at the store, information regarding a time of availability of a product when it is determined that the product is not currently present within the store, product price information, information regarding a sale/promotion relating to the product, information regarding a second store at which the product is available, and information regarding an alternative product.

Therefore, unlike the system of Sloane et al., the Applicant's system can operate in a variety of useful and helpful manners due its integration of both product location information and product availability information including, for example, operating to avoid misdirecting customers to locations at which products are no longer available as recited in each of claims 1, 13, 14 and 25. Because Sloane et al. fails to disclose or suggest a system in which product location and product availability information is integrated and utilized to provide more accurate information to customers, the Applicant submits that claims 1, 13, 14 and 25, as well as the claims depending therefrom, are allowable under 35 U.S.C. 103(a) over Sloane et al. The Applicant also respectfully notes that the applicability of the above comments does not necessarily depend upon any of the aforementioned amendments to the claims.

C) Substantially Stationary Interface(s)

Regardless of the aforementioned considerations, the Applicant additionally submits that claims 1, 13, 14 and 25 as amended also are allowable over Sloane et al. because the Applicant's system as recited in those claims employs a user interface (or, alternately, an input/output device, input/output means, or terminal) that is positioned within a store in a substantially stationary manner. In contrast, Sloane et al. strictly discloses a system that employs one or more mobile devices, and fails to disclose or suggest the use of fixed devices.

This difference between the system of Sloane et al. and the Applicant's claimed system is significant because, as a result of this difference, each of the systems entails different advantages. The system of Sloane et al. is intended to be an "interactive system" that allows consumers to move throughout a store and obtain information about products of interest as they pass by or encounter those products (see col. 1, lines 23-39 and col. 2, lines 43-59). By using mobile devices, Sloane et al. makes information highly accessible at all or virtually all times to consumers who may want information on an immediate basis at a variety of times and locations during their shopping experiences.

In contrast, the Applicant's system is limited in terms of the accessibility of the information terminals at which customers are able to obtain information. Nevertheless, the Applicant's system is advantageous relative to the system of Sloane et al. in other

manners, insofar as the Applicant's system is less complicated to design and maintain. In particular, in contrast to the system of Sloane et al., there is much less reason for a store owner utilizing the Applicant's system to be concerned with the possibility of consumers stealing or otherwise destroying/damaging the informational terminals of the Applicant's system since the terminals are at substantially fixed locations within the store and are limited in number. Further, the Applicant's informational terminals can be made larger and more robust than mobile terminals that are intended to be carried or otherwise brought around a store by customers (see the Specification at page 5, lines 1-3).

Therefore, for at least these additional reasons, the Applicant submits that claims 1, 13, 14 and 25, as well as the claims depending therefrom, are allowable under 35 U.S.C. 103(a) over Sloane et al.

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### **Conclusion**

Given the Applicant's Remarks and Amendments, the Applicant respectfully requests reconsideration and allowance of the present Application.

The Applicant invites the Examiner to telephone the Applicant at the telephone number listed below if discussion with the Applicant would further the prosecution of the present Application, or otherwise be of assistance to the Examiner.

The Applicant further respectfully submits that no fees are due in connection with the submission of the present Amendment.

Respectfully,



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